

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

IRVIN SALTWATER,

Petitioner,

v.

No. 16-cv-0549 MCA/SMV

RICHARD MARTINEZ,

Respondent.

**ORDER GRANTING MOTION TO PROCEED
IN FORMA PAUPERIS AND TO ANSWER**

THIS MATTER is before the Court on Petitioner's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody [Doc. 1] and Application to Proceed in District Court Without Prepaying Fees or Costs [Doc. 2]. Because it appears that Petitioner is unable to pay the filing fee pursuant to 28 U.S.C. § 1915, the Court will grant the Application to Proceed in District Court without Prepaying Fees or Costs. The Court has reviewed the Petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts and determined that it is not subject to summary dismissal, and therefore, the Court will order Respondent to file an answer to the Petition.

IT IS THEREFORE ORDERED that Petitioner's Application to Proceed in District Court without Prepaying Fees or Costs [Doc. 2] is **GRANTED**. Petitioner may proceed without prepayment of costs or other fees or the necessity of giving security therefor.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to forward copies of this Order, the Petition [Doc. 1], and supporting papers and exhibits, if any, to Respondent and the New Mexico Attorney General.

IT IS FURTHER ORDERED that Respondent answer the Petition **no later than July 18, 2016**. Respondent's answer shall advise, but is not limited to, whether Petitioner has exhausted his state court remedies as to the issues raised in the federal petition. Respondent shall attach to his answer copies of any filing pertinent to the issue of exhaustion that was filed by Petitioner in the sentencing court, the state district court, the state court of appeals, and the state supreme court, together with copies of all memoranda filed by both parties in support of or in response to those filings. Respondent shall also attach to the answer copies of all state court findings and conclusions, docketing statements, and opinions issued in Petitioner's state court post-conviction or appellate proceedings. In the event Respondent denies exhaustion, he shall identify the State procedures currently available to Petitioner given the nature of Petitioner's claims and their procedural history.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
UNITED STATES MAGISTRATE JUDGE